THE HON'BLE SRI JUSTICE V.V.S. RAO

WRIT PETITION Nos.18304 & 18341 of 2005

And

WRIT PETITION No. 5637 of 2006

DATED:29-03-2006

W.P.No.18304 of 2005

Between:

Yedlapalli Sobha Rani .. Petitioner

And

The Government of Andhra Pradesh, represented by Principal Secretary, Revenue Department, Secretariat, Hyderabad. and others.

..Respondents

W.P.No.18341 of 2005

Between:

Pidakala Samson Vijaya Prakash Raju and another

.. Petitioners

And

The Government of Andhra Pradesh, represented by Principal Secretary, Revenue Department, Secretariat, Hyderabad. and others.

..Respondents

W.P.No.5637 of 2006

Between:

M.L.N.Prasada Rao and another

.. Petitioners

And

The Government of Andhra Pradesh, represented by Principal Secretary, Revenue Department, Secretariat, Hyderabad. and others.

..Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION Nos.18304 & 18341 of 2005

And

WRIT PETITION No. 5637 of 2006

COMMON ORDER:

In all these writ petitions the proceedings of the Mandal Revenue Officer, Visakhapatnam (Rural) in Rc.No.27/20/A, dated 16-05-2005, are assailed. Therefore, it is necessary to dispose of all the writ petitions by a common order.

The land admeasuring Acs.2.50 cents comprised in R.S.No.159/3 of Kommadi Village, Visakhapatnam, was originally assigned to one Uppada Gurrayya of the said Village. One Mantena Seethamma purchased the land from Gurrayya and sold the same to one Sekhara Mahanti Gurunadha Rao under a registered sale deed, dated 10-11-1976. The petitioners in W.P.No.18341 of 2005 statedly purchased a portion of the property from Gurunadha Rao under a registered sale deed, dated 15-06-1987, and likewise the petitioner in W.P.No.18304 of 2005 purchased the land from Gurunadha Rao under a registered sale deed, dated 14-08-1986. In the case of three petitioners in W.P.No.5637 of 2006, they statedly purchased the land in their possession under separate registered sale deeds, dated 04-08-1990.

The Mandal Revenue Officer initiated action under the provisions of the Andhra Pradesh Assigned Lands (Prohibition of Transfers) Act, 1977 ('the Act', for brevity) and the Andhra Pradesh Assigned Lands (Prohibition of Transfers) Rules, 1997 ('the Rules', for brevity), issued a show cause notice to Gurunadha Rao alleging that the transfer of assigned land by Gurrayya to Seethamma and from Seethamma to Gurunadha Rao is void for being in contravention of Section 3(1) of the Act and he was asked to explain as to why the land should not be resumed to the Government. Gurunadha Rao submitted his explanation, and after considering the explanation, the Mandal Revenue Officer issued impugned order resuming the land for contravention of the provisions of the Act.

Two submissions are made in assailing the impugned order. First, they contend that the assignment and sale of land in favour of Gurravya to Seethamma and the

purchase of the land by Gurunadha Rao from Seethamma was much prior to coming into force of the Act, and therefore, the Act does not apply. Secondly, it is the submission of the learned counsel for the petitioners that unless and until any notice is issued under Form I in Rule 3 of the Rules to the persons in possession, the orders of the Mandal Revenue Officer cannot be enforced. Learned Assistant Government Pleader for Revenue (General) opposes the writ petitions. He submits that the land is vacant and Gurunadha Rao did not even whisper in the explanation that he sold away the land to the petitioners. Secondly, he would urge that no evidence is placed before this Court in proof of the allegation that the petitioners purchased the land from Gurunadha Rao. However, the learned counsel does not dispute such purchase by the petitioners in W.P.No.5637 of 2006.

A bare perusal of the impugned order passed by the Mandal Revenue Officer would show that a notice in Form I under Rule 3 of the Rules was issued only to Gurunadha Rao, who appears to be no more interested in the land comprised in R.S.No.159/3 by reason of the sale deed executed in favour of the petitioners in 1986, 1987 and 1990. For this reason alone, the impugned order cannot be enforced against the petitioners in these writ petitions. The impugned order is, therefore, set aside insofar as the land in possession of the petitioners is concerned, giving liberty to the Mandal Revenue Officer to issue notice to the petitioners calling for their explanation and pass appropriate orders in accordance with law. This exercise may be completed within a period of four weeks. If the petitioners are still in possession, there shall be *status quo* as on today for a period of six weeks.

The Writ Petitions are accordingly allowed. No costs.

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(V.V.S.RAO, J)

29-03-2006

GJ